

Shreyans H. Desai  
[REDACTED]  
Edison, NJ [REDACTED]  
Defendant, Pro Se

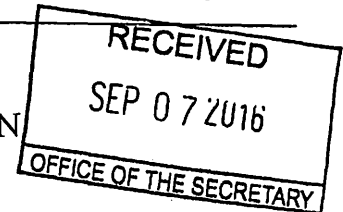
Received

SEP 07 2016

Office of Administrative  
Law Judges

---

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549



Administrative Proceeding No.: 3-17035  
Initial Decision Release No.: 1044

---

IN THE MATTER OF

SHREYANS DESAI

**Motion To Correct Manifest of Errors: Part A**

---

The Initial Decision has August 5, 2016 however the mailing stamp is August 15, 2016. The local post office received the document on August 18, 2015 which I picked it up on August 25, 2016.

My Father and I are [REDACTED] We are NOT allowed to live in our house. If needed, I am willing to submit all necessary supporting documents. Whenever we are nearby, we pick up the mail. The Mail delivery person has known us for many years and keeps our mail separate.

I, respectfully would like to ask for the permission to submit my Motion to correct manifest of errors and it is my prayer that **Exhibit A**, a copy of a 15 page document titled: Response to SEC'S Brief, which was Filed at Hon. 3rd Circuit on August 18, 2016; should be considered as a part of this Motion.

In addition Your Honor, as a foot note on Page 4 (**Exhibit B**), wrote, "On October 3, 2012, the district court entered a default judgment permanently enjoining SSC....." To, which, I respectfully do not agree. My partner is not charged with anything and if we are able to retain an attorney then we will file a motion to vacate the default judgment.

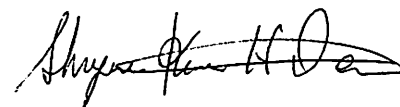
Additionally, I am grateful to Hon. Murray for pointing out, "Plead guilty in the criminal but the first - the first was a default judgment, right, 10/30/2012?"

Please see **Exhibit C**, Page 11 and 12 of February 18, 2016 Hearing.

It is my humble belief that if I am successful in vacating default judgment of 10/30/2012, then all of the subsequent events might not be enforceable.

I reserve the right to submit manifest of errors, part be as well as a petition for review, which will be within 21 days after the service.

Respectfully Submitted By,

A handwritten signature in black ink, appearing to read 'Shreyans H. Desai', written in a cursive style.

Shreyans H. Desai

**Certification of Services:** I certify that I am mailing a copy of this document to my adversary: Attorney Ms. Christina McGill, SEC at Securities and Exchange Commission, 100 F St. N.E., Washington, DC, 20549, via USPS First Class Mail with Certificate of Mailing.

Respectfully Submitted By,

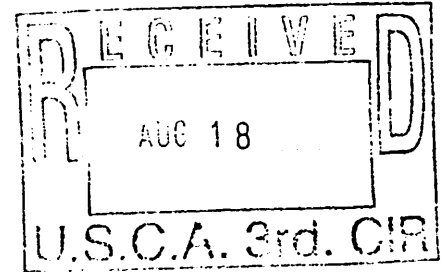
A handwritten signature in black ink, appearing to read 'Shreyans H. Desai', written in a cursive style.

Shreyans H. Desai

Exhibit A

15 Pages

No.: 16 – 1629



---

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

---

Securities and Exchange Commission

v.

Shreyans Desai, Shreysiddh Capital, LLC

---

**RESPONSE TO SEC'S BRIEF**

Respectfully submitted by:

Shreyans Desai

[REDACTED]

Edison, NJ [REDACTED]

My name is Shreyans H. Desai. I am of major age, US born Citizen. I respectfully ask for the permission allowing me to submit my Reply to SEC'S Brief.

It is my humble belief that Ms. Waldron, Clerk of Hon. 3<sup>rd</sup> Circuit unethically granted my adversary, SEC a Government Agency, 30 Days Extension. Kindly review **Exhibit A**, first page of my OPPOSITION to SEC's very late request for an Extension. Please review **Exhibit B**, on June 29, 2016; first Clerk issued an Order granting 30 Days extension to SEC and at that moment, my Opposition was there but no actions were taken on my Opposition.

Mr. Christopher Paik of SEC while asking 30 days extension wrote in his two pages letter that Personal Commitment during June 30 - July 6, and conflict of scheduling. My question to Ms. Waldron, Clerk is that are these valid reasons for an extension when asked at the last moment? Please review **Exhibit C**, a copy of my certified letter dated May 20, 2016 to Mr. Paik where I am requesting his help for the Joint Appendix. Mr. Paik was aware of this matter sufficiently in advance. My father and I are [REDACTED] We live on [REDACTED]. While Mr. Christopher Paik of SEC enjoyed tax payers funded 4<sup>th</sup> of July Vacation, we are [REDACTED]. I beg to Hon. Judges to please review Exhibit A, B and C; and kindly set aside SEC's Brief as late and untimely filed. SEC filed motion for an extension on June 23, 2016 and Hon. Court received my 13 pages Opposition on June 29, 2016. I mailed in my Opposition. It is my prayer that, my Opposition, 13 Pages Document, filed on June 29, 2016; should be considered an integral part of this my Reply. I reserve the right to appeal. SEC filed a Complaint at the District Court in September 2011. This matter is five years old and has been appealed as well. However, please review the first page of the Brief filed on August 5, 2016: that for the first time, there are five top individuals of SEC got to gather to prepare SEC's Brief of August 5, 2016.

Very cleverly, all these top five SEC's individual, intentionally DID NOT answer the following MATERIAL FACTS and knowingly are misleading Hon. 3<sup>rd</sup> Circuit:

- In my Brief, on Page 6, last paragraph J is about FOREX. I wrote, "There was an excessive force by all the authorities and we were put out of the business. Our company Shreyshiddh Capital, consisting of my 50% partner Siddharth Patel who registered the company, was involved in Forex and in Option Trading. Please note: Forex trading is 20 currencies around the world, where SEC has NO Jurisdiction. Anyone can start Forex without any kind of License with as little as \$ 50. As of today, Ms. McGill of SEC has never given ANY explanation that why SEC forced the two Forex accounts of Shreysiddh Capital to be closed down? The Government confirms that the two Forex accounts of Shreysiddh Capital were making money. If the two Forex accounts were allowed to be traded and continued, then there would not have been any losses and the company would have generated profit instead."

**MY ARGUMENT:** The reason why I copied the entire above paragraph from Page 6 of my Brief is to show you that ALL five top SEC's individuals who prepared the Response Brief of Aug 5, 2016 must have read the above long paragraph but ALL five of them decided not to respond on Forex. Probably they thought that Hon. Judges might not notice it. The Fact is that SEC does not have any answer. SEC knows that it was wrong of SEC to force the closures of two Forex Accounts. This is a genuine dispute of material fact. SEC could have said something, anything but SEC's ignorance about Forex shows that summary judgment was NOT warranted. This issue alone is sufficient to send the matter back to the District Court. I demand a Trial. I want my Day in a Court. I beg that I am allowed to defend and I should be allowed to bring in an Expert Witness to

make an argument about how much Shreysiddh Capital would have made if those two Forex Accounts were allowed to operate and allowed to continue.

I would not have been able to make this argument if two Forex Accounts did not make any money. US Government retained an Expert Witness and it was proved that between Dec. 2009 to Feb. 2011; total over \$ 16000 was made in two Forex Accounts, **Exhibit D**. If any of above was wrong SEC would have objected but these top FIVE SEC individuals have not made any comment in their Brief about Forex. It is a very serious "MANIFEST INJUSTICE." From the beginning, SEC was aware of these two Forex Accounts, please see **Exhibit E** a list of all the accounts prepared by SEC which includes two Forex Accounts. In this case, SEC's silence is SEC's guilt. Please see **Exhibit F**, two pages. I filed two motions and these two motions are still open at the District Court.

• **WHY SUMMARY JUDGMENT WAS NOT FILED WITHIN  
REQUIRED AND LEGAL TIME AFTER FILING THE COMPLAINT  
IN SEPTEMBER 2011 ?**

**MY ARGUMENT:** The main issue before Hon. 3<sup>rd</sup> Circuit Court is that: are there violations when SEC filed a summary judgment ? SEC filed a complaint in September 2011 and after three and half years, SEC filed a summary judgment. The District Court granted summary judgment in November 2015 while I was in prison and knowing well that I wouldn't be able to defend while I was in prison. SEC in its Brief of Aug 5, 2016 failed to explain that WHY summary judgment was not filed within six months or within the guidelines of Federal Rules. SEC claims that there was a STAY but that Stay was effective as of October 28, 2013. (Document 81). Meaning after filing a Complaint in September 2011 SEC had TWO YEARS to file summary judgment but did not file. There is NO explanation anywhere from SEC that why SEC did not follow Federal Rule to file summary judgment in a timely manner?

I submit SEC's summary judgment was untimely, unwarranted, ignored the genuine issues like two Forex Accounts and was a Constitutional Violation. The Stay was put Two Years after SEC filed a Complaint. SEC filed a summary judgment in a complete bad faith while I was in a prison. Now I am [REDACTED] because of constant abuse of the System by SEC.

- **SEC FAILED TO EXPLAIN THAT WHY MY 50% PARTNER WAS NOT MADE A PARTY ?**

**MY ARGUMENT:** SEC wanted to wait until the outcome of criminal proceedings. In that case, SEC should have waited and should have filed a Complaint just against me; that is against Shreyans H. Desai. In this case, kindly see the caption, which includes Shreysiddh Capital. I am not a MAJORITY shareholder of Shreysiddh Capital. My partner Siddharth Patel is equal shareholder, therefore I should have been allowed to make my 50% partner a Party OR SEC should have explained in its Brief that why my 50% partner was not made a party? Since the beginning of this matter, Joinder of my 50% partner is an extremely important and genuine issue. Burden of proof is on SEC. The actual reasons are unknown but Ms. McGill of SEC made this entire matter highly complicated unnecessarily and caused me a tremendous personal harm including 15 months of incarceration by NOT making my 50% partner as a Party. Only the time will tell that what did Ms. McGill of SEC gained for this fundamental violation ? In the meantime, please note that there is no statement, no affidavit, no deposition made of my partner.

Kindly review **Exhibit G**, a partial list of individuals SEC was planning to depose in early 2013. My 50% Partner, Siddharth was also named for deposition. When I asked Ms. McGill of SEC that would I be allowed to be present during these depositions? Everything changed. SEC cancelled all the depositions and discovery was never completed.



My 50% partner is the registering agent and he registered our company, Shreysiddha Capital. If Ms. McGill of SEC had made my partner a Party then we all would have saved lots of time and resources to reach to the Truth properly and accurately. I strongly believe that I cannot Defend without my 50% partner. It is a very serious Constitutional violation. Once again, I submit that in the absence of my partner's Deposition and in the absence of my 50% partner as a PARTY, this summary judgment is illegal and is unenforceable.

- **SEC'S math is wrong. HOW DID SEC ARRIVE TO \$ 167,229 ?**

**MY ARGUMENT:** Kindly review **EXHIBIT H**. The US Government says that I lost total \$ 121,260 however SEC in its Brief of Aug 5, 2016 says, "All told, investors lost \$ 167,229." Page 5, first paragraph at the middle of the page. **SEC IS WRONG**. I did not lose investors \$ 167229. If that was the case, US Attorneys would have noticed it and I would have been sentenced for more than 15 months. SEC is throwing lots of figures and amounts everywhere in its Brief but has not submitted a simple list. It is beyond my imagination that SEC is not honest about how much money was lost? Is US government wrong? No. SEC is wrong. There is a very serious discrepancy in SEC's calculation of investors' loss. I beg that the matter should be send back to work on the Loss. The Difference between SEC and US Government is \$ 45,969 (\$ 167229 Less \$ 121260), which is huge difference. For once, SEC needs to respect Others Rights and recalculate INVESTORS LOSS in an honest, calm and professional manner. Summary Judgment is illegal.

**IN SUMMARY:** District Court Judge Martini, who handled both the criminal and civil matter said, "I think everybody agrees, this was **not** what we would classify as a Ponzi scheme." Please see **Exhibit I** copy of Judge's Statements from the Transcript. (Exhibit H and Exhibit I, both are on one page, which is the last page of this document) At the trial court, SEC never made an argument that this was a Ponzi scheme. Now all of a sudden, here at the Appellate, SEC in its Brief

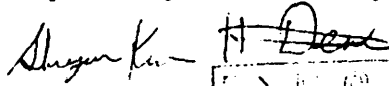
says that it was a Ponzi scheme without any basis. Appeals are based on what we all have already developed at the trial court. During last five years, an argument of a Ponzi scheme was never made by any party. Here, just to win the case at Hon. 3<sup>rd</sup> Circuit, SEC is making Ponzi scheme argument unfairly, illegally and just like INVESTORS LOSS Amount, SEC is completely wrong on Ponzi scheme. SEC could make an argument about the Ponzi scheme but for that we have to go back to the trial court and I should be allowed to Defend. I beg for a trial.

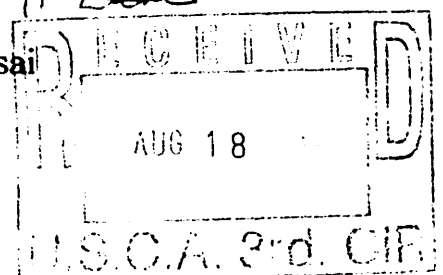
Based on the above and based on the attached nine exhibits, it is my prayer that my appeal is granted. The most genuine and serious issues are: (A) Two Forex Accounts (B) the summary motion was NOT filed in a timely manner, within the Federal Guideline (C) Since Shreysiddh Capital is a party then why my 50% partner is not a Party (D) Most importantly, US Government says that INVESTOR LOSS was \$ 121260 but SEC cooked up the amounts and wrongfully says that INVESTOR S LOSS is \$ 167229. SEC is wrong and why should I be punished for that SEC's imaginary additional LOSS of \$ 45,969. (E) SEC should have made Ponzi scheme argument while the matter was at the trial court. Appellate is not the place to travel into a completely new direction. Mr. Paik and SEC should have known that there is no discovery at Hon. 3<sup>rd</sup> Circuit.

I most humbly submit that ALL FIVE Top LAWYERS of SEC, MS. Ann K. Small, Mr. Bulsara, Mr. Michael A. Conley, Mr. Dominick V. Freda and Mr. Paik are wrong and are misleading this Hon. Court. There are several unresolved; genuinely serious issues need to be resolved. There is a MANIFEST INJUSTICE. Summary Judgment was untimely, unfair, illegal and in Constitutional violation.

August 18, 2016

Respectfully submitted by

  
Shreyans Desai



(6)

Shreyans H. Desai

Edison, NJ

Defendant, Pro Se

**U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT**

Case Number: 16-1629

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff

v.

SHREYANS DESAI and

SHREYSIDDH CAPITAL, LLC,

Defendants,















**OPPOSITION TO PLAINTIFF'S**  
**30 DAY EXTENSION TO FILE**  
**THEIR BRIEF REPLY**

My name is Shreyans H. Desai. I am of full age and I am a US Born Natural Citizen. I, most respectfully ask Hon. Court's permission to please allow me to submit my following Opposition:

- 1) I acknowledge the receipt of an email from Mr. Christopher Paik. However, I did not receive an overnight delivery of Motion Papers as Mr. Paik mentioned in his Certificate of Services.
- 2) Please see **Exhibit A**. I followed the Rules and Instructions of Hon. Third Circuit and accordingly, I filed my Brief on a timely basis.
- 3) Plaintiff, Securities and Exchange Commission, is a government agency and is funded by the tax payers' money. Incase Hon. Third Circuit is lenient towards a government agency, then it would be unfair as well as unjust. Therefore, I reserve the Right to Appeal incase Hon. Third Circuit grants favor to SEC because SEC is a government agency. It is my prayer to please consider that we all are equal before the Law.
- 4) It is a fact that Mr. Christopher Paik is thoroughly familiar with this matter. Kindly review, **Exhibit B**, three pages; a certified letter mailed to Mr. Christopher Paik over 15 months ago and unfortunately, Mr. Paik had ignored the serious issues raised in Exhibit B. For example, SEC claims that in February 2015, there was an office wide network outage. However, as of today, SEC has never supported that network outage incident with either from an independent third party or with verifiable documents. It is my belief that since SEC is a government agency, SEC can lie, SEC can cheat, and SEC could be deceptive.

⑦

EXHIBIT A

03/24/2016		CIVIL CASE DOCKETED. Notice filed by Appellant Shreyans Desai in District Court No. 2-11-cv-05597. (JK)
03/24/2016		RECORD available on District Court CM/ECF. (JK)
03/25/2016		ECF FILER: ENTRY OF APPEARANCE from Christopher Paik on behalf of Appellee(s) Securities and Exchange Commission. (CP)
03/25/2016		BRIEFING NOTICE ISSUED. Brief on behalf of Appellant Shreyans Desai due on or before 05/04/2016. Appendix due on or before 05/04/2016. (JK)
03/28/2016		TRANSCRIPT PURCHASE ORDER FORM (Part 1), filed. No proceedings in District Court. (JK)
04/11/2016		MOTION filed by Appellant Shreyans Desai for a 30 Day Extension of Time to File Brief and Appendix. Response due on 04/21/2016. Certificate of Service dated 04/07/2016. (JK)
04/18/2016		ORDER (Clerk) granting Motion for extension of time to file brief and appendix filed by Appellant Shreyans Desai. Appellant's brief and appendix must be filed and served on or before 06/03/2016, filed. (JK)
06/06/2016		INFORMAL BRIEF with Appendix attached on behalf of Appellant Shreyans Desai, filed. Pages: 9. Certificate of Service dated 06/03/2016 by US mail. (SJB)
06/23/2016		ECF FILER: Motion filed by Appellee SEC for Extension of Time to file answering brief of SEC until/or 8/5/16. Certificate of Service dated 06/23/2016. (CP)
06/29/2016		ORDER (Clerk) granting Motion for extension of time to file brief by Appellee SEC until August 5, 2016, filed. (MLR)
06/29/2016		RESPONSE on behalf of Appellant Shreyans Desai in Opposition to Appellee's Motion for Extension of Time to File Brief. Certificate of Service dated 06/27/2016. (JK)
07/07/2016		ORDER (Clerk) no action will be taken on the Response filed by Appellant Shreyans Desai, filed. (JK)
08/05/2016		ECF FILER: ELECTRONIC BRIEF on behalf of Appellee SEC, filed. Certificate of Service dated 08/05/2016 by US mail. (CP)
08/05/2016		NON COMPLIANCE Order issued to Appellee SEC regarding the brief filed on 08/05/2016. Please open the attachment for the full text of the Order. Compliance due by 08/09/2016. This Order does not change the deadline for filing the next brief. (EMA)
08/08/2016		HARD COPY RECEIVED from Appellee SEC - Brief. Copies: 7. (KEL)
08/08/2016		ECF FILER: ELECTRONIC ADDENDUM to BRIEF on behalf of Appellee SEC containing Certification re identical content of electronic brief and virus scanning, filed. Certificate of Service dated 08/08/2016 by US mail. (CP)
08/08/2016		COMPLIANCE RECEIVED. Addendum to brief in electronic format received from Appellee SEC. (EMA)

(8)

EXHIBIT B

May 20, 2016 Email: paikc@sec.gov and Certified Mail No.:70150640000391942982

Shreyans H. Desai

Edison, NJ

Email:

Attorney Mr. Christopher Paik  
Securities and Exchange Commission  
100 F. Street N.E.  
Washington, DC 20549

Re: Securities and Exchange Commission v. Desai, et al  
U.S. District Court, District of New Jersey Case No. 2:11-cv-05597  
USCA3 Case No. 16-1629

Dear Mr. Paik:

Please allow me to submit to you the following certification:

- 1) As Scheduling Order mentions, I am available to file a Joint Appendix. Please note that I am sending you an email as of May 21, 2016 and I am also sending you a certified letter informing you that I am available for any discussion and for filing a Joint Appendix.
- 2) As you must be aware that originally SEC had blamed me that I had defrauded TWO individuals and then, SEC changed its position and now SEC is saying that I defrauded only ONE individual. I did ask Attorney Christina McGill of SEC twice to certify the name of which individual I defrauded. Please note that as of today, Ms. McGill has not cooperated and in my opinion, Ms. McGill is trying to avoid my request. Kindly review Exhibit A, three pages, copies of my emails to Ms. McGill about my request to get an accurate information of which individual I defrauded.
- 3) As you know, I have a Constitutional Right to Defend myself and I have a Right to submit an ACCURATE Brief. Therefore, I beg you to please provide me the name of which individual I defrauded?
- 4) Please note that as Ms. McGill mentioned in her last email, Exhibit B, I am still waiting for the package, with CD.

⑨

- 10629 -

EXHIBIT C

Shreysiddh Capital

	Date	Amount
Deposit	Dec-2009	\$ 1,000.00
	Sep-2010	\$ 57,212.46
	Dec-2010	\$ 15,999.99
	Feb-2011	\$ 12,000.00
Total Deposit		\$ 86,212.45

Withdrawal	Sep-2010	\$ (28,000.00)
	Dec-2010	\$ (16,000.00)
	Feb-2011	\$ (35,930.00)
Total Withdrawal		\$ (79,930.00)

Net Cash		\$ 6,282.45
----------	--	-------------

Shreysiddh Capital

	Date	Amount
	Nov-2009	\$ 6,000.00
	Dec-2009	\$ 1,000.00
	Jan-2010	\$ 2,000.00
	Feb-2010	\$ 10,000.00
	Apr-2010	\$ 15,000.00
	Aug-2010	\$ 50,000.00
		\$ 84,000.00

	Dec-2009	\$ (2,000.00)
	May-2010	\$ (6,000.00)
	Jun-2010	\$ (5,000.00)
	Sep-2010	\$ (60,212.46)
	Dec-2010	\$ (999.99)
		\$ (74,212.45)

		\$ 9,787.55
--	--	-------------

+

(10)

EXHIBIT D

### Summary of Bank and Brokerage Records

5. This Declaration is based primarily on my review of bank and brokerage account records obtained by the SEC staff, including monthly account statements and account opening documents. The following chart lists the account records I reviewed:

Business Checking	Bank of America, NA ("BOA")	Shreysiddh Capital LLC	REDACTED [REDACTED]	Dec. 2009-Feb. 2011
Business Checking	Bank of America, NA ("BOA")	Shreysiddh Capital LLC	REDACTED [REDACTED]	Nov. 2008-Feb. 2011
Business Checking	HSBC	Shreysiddh Capital LLC	REDACTED [REDACTED]	June 2009-Jan 2011
Business Checking	HSBC	Shreysiddh Capital LLC	REDACTED [REDACTED]	June 2009-Aug. 2009
Business Checking	T.D. Bank, N.A.	Shreysiddh Capital LLC	REDACTED [REDACTED]	Nov. 2008-Feb. 2011
Brokerage	TD Ameritrade (Thinkorswim, Inc. before Jan. 2009)	N.P.	REDACTED [REDACTED] - REDACTED [REDACTED]	Oct. 2008-June 2013
Brokerage	TD Ameritrade	Shreysiddh Capital LLC	REDACTED [REDACTED] (includes Forex account [REDACTED] and Futures account [REDACTED])	June 2009-Dec. 2011
Brokerage	TD Ameritrade	Shreysiddh Capital LLC	REDACTED [REDACTED] (includes Forex account [REDACTED] and Futures account [REDACTED])	Dec. 2009-Feb. 2011

TWO  
FOREX  
ACCOUNT  
←

6. Desai had signing authority over the seven accounts held in the name of Shreysiddh Capital, LLC ("SSC"). Copies of relevant bank and brokerage account opening documents are attached as O'Kane Exhibit 1.

11

EXHIBIT E

RECEIVED

Shreyans H. Desai

Edison, NJ

MAR 26 2015

AT-8:30 2:35 PM  
WILLIAM T. WALSH, CLERK

**UNITED STATES DISTRICT COURT, DISTRICT OF NEW JERSEY**  
**District Case Number: 2:11-CV-05597**

**SECURITIES AND EXCHANGE COMMISSION,**  
Plaintiff

v.

**SHREYANS DESAI and**  
**SHREYSIDDH CAPITAL, LLC,**  
Defendants,

**Motion Requesting Sanctions For**  
**\$15,000+ from Plaintiff for Forex**  
**Accounts Mishandlings**

I, Shreyans H. Desai of full age and a US Born Natural Citizen respectfully asks Hon. District Court's permission to allow me to submit my Application Requesting Sanctions of \$15,000 Forex Accounts profits.

In support of my Application, I certify to the following:

- 1) In their 510 pages Motion for Summary Judgment and after 4+ years, the Securities And Exchange Commission (SEC) has never explained that why we were forcefully closed down Two Forex Accounts. SEC does not have Jurisdiction of Forex.
- 2) In the 510 pages Motion for Summary Judgment, Securities And Exchange Commission has relied heavily on the Criminal Proceedings. Therefore, I respectfully ask that I be allowed to utilize a document which has been prepared by the US Government. Please note that the Criminal matter is under Appeal, Docket Number: 15-1105.
- 3) Based on Exhibit A, six pages of calculations, the US Government says that the Forex Accounts generated profits of over \$15,000.
- 4) In my humble opinion, the Securities and Exchange Commission is misleading the Hon. Court and it is my prayer that SEC should be Sanctioned for \$15,000+ of Forex Accounts. I beg the Hon. Court to please also consider Sanctioning the loss and the lost opportunities of possible future profits on Forex.
- 5) If my Application is granted, then I submit the Sanctioned amount should be distributed half-and-half to Mr. Urjo Dhyans (U.D.) and Mr. Nirav Patel (N.P.).

(12)

EXHIBIT F  
Pg 1 of 2



Shreyans H. Desai

Edison, NJ 08820-2319

2015 11 55

**UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT**

**Case Number: 15-1436**

**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff**

**v.**

**SHREYANS DESAI and  
SHREYSIDDH CAPITAL, LLC,  
Defendants,**

**Motion Requesting Sanctions/Damages  
From Securities And Exchange Commission  
&  
A Request For A Trial**

I, Shreyans H. Desai of full age and a US Born Natural Citizen, respectfully asks Hon. Third Circuit Court's permission to allow me to submit my Application Requesting Sanctions and Damages of \$83,489.54 from Securities And Exchange Commission (SEC) and a Request for a Trial.

In support of my Application, I Certify to the following:

- 1) On February 26, 2015, I received a 510 pages Document from the Securities And Exchange Commission. Copy of the first page is attached herewith as **Exhibit A**, which is about the Federal Rule of Civil Procedure 56 and Local Civil Rule 56.1.
- 2) Essentially, in these 510 pages, the Securities And Exchange Commission is claiming, I defrauded two investors, namely: Mr. Urjo Dhyam (U.D.) and Mr. Nirav Patel (N.P.).
- 3) As per the requirements of Federal Rule of Civil Procedure 56, a four page Declaration from Mr. Urjo Dhyam (U.D.) is included in these 510 pages.
- 4) However, as required by the Rule, there is NO Declaration from Mr. Nirav Patel included in the Motion Documents for Summary Judgment. Therefore, I am requesting Sanctions and Damages of \$83,489.54 from SEC.
- 5) The Securities And Exchange Commission, being a Government Agency has a greater responsibility to follow the "Letter of the Law" and the SEC should not take any shortcuts. There is NO Declaration, NO Deposition, NO Cross-examination, NO Interrogatory Answers, NO Testimonies, and NO Affidavits by Mr. Nirav Patel (N.P.)
- 6) Matter of fact, there is NO Statement from Mr. Nirav Patel (N.P.) anywhere in the Criminal Proceedings (Docket No: 2:12-0330). Please note, the criminal matter is

IN EARLY 2013, SEC PREPARED LIST  
OF THE NAMES FOR DEPOSITION BUT  
WERE NEVER DEPOSED.

① Harshad Desai	[REDACTED] Edison, NJ	
Urjo Dhyani	[REDACTED] Iselin, NJ	William Kerr, Esq. Kerr & Katz, LLP 44 Wall Street, 12 <sup>th</sup> Floor New York, NY 10005 (212) 423-0305
Rohan Modi	[REDACTED] Edison, NY	
Antonio Nardi	[REDACTED] Bronxville, NY	
Fred Nardi	[REDACTED] Bronxville, NY	
Salvatore Nardi	[REDACTED] Iselin, NJ	
Aruna Patel	[REDACTED] Edison, NJ	
Harshad Patel	[REDACTED] Edison, NJ	
② Nirav Patel	[REDACTED] Edison, NJ	
③ Siddharth Patel	[REDACTED] Piscataway, NJ	Paul Brickfield, Esq. [REDACTED] River Edge, NJ [REDACTED]

**C. SEC personnel**

Name	Contact Information	Counsel
Edward Janowsky	Securities and Exchange Commission – New York Regional Office 3 World Financial Center – Suite 400 New York, NY 10281	
Hitan Patel	Securities and Exchange Commission – New York Regional Office 3 World Financial Center – Suite 400 New York, NY 10281	

Defendant: SHREYANS DESAI  
Case Number: 2:12-cr-0330-01

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution in the total amount of \$121,260.00. Payments should be made payable to the U.S. Treasury and mailed to Clerk, U.S.D.C., 402 East State Street, Rm 2020, Trenton, New Jersey 08608, for proportionate distribution to the following victims in the following amounts

<u>Name of Payee (Victim)</u>	<u>Amount of Restitution</u>
UD	① \$90,000
	+
N.P.	② \$31,260
	<u>\$ 121,260</u>

EXHIBIT H

↓ FROM THE TRANSCRIPT ↓

17 THE COURT: Okay. Thank you, Mr. Leven.

18 All right. I've heard from both -- Ms. Cimino, go

19 ahead.

20 MS. CIMINO: No, Judge. I would just like to  
21 reiterate that if your Honor is not inclined to depart or grant  
22 a variance, that you sentence Mr. Desai at the low end of the  
23 Guideline range. That's all, Judge. Thank you.

24 THE COURT: All right.

25 I think everybody agrees, this was not what we would

1 classify as an Ponzi scheme.

2 MR. LEVEN: That's correct, Judge.

EXHIBIT I

**CERTIFICAION OF SERVICE:**

August 18, 2016.

I, Shreyans Desai, full age, certify that I am sending a complete copy of my:  
Response to SEC's Brief via certified mail to my adversary.

**Certified Mail # 7015 3010 0001 5461 2448.**

Mailed on August 18, 2016 to:

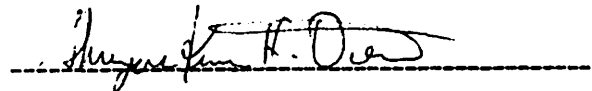
CHRISTOPHER PAIK

SECURITIES AND EXCHANGE COMMISSION

100 F. STREET, N. E.

WASHINGTON, D.C. 20549

August 18, 2016

A handwritten signature in black ink, appearing to read "Shreyans Desai", is written over a horizontal dashed line.

Shreyans Desai

Exhibit B

1 Page

## Desai's Conduct

Desai was in his early twenties when he cofounded Shreysiddh Capital, LLC (SSC), a New Jersey limited liability corporation, in 2008. Ex. D at 2; Ex. L at 3, 12-13. SSC was not registered with the Commission or any other financial or regulatory agency, and Desai was not licensed as a securities professional.<sup>5</sup> Ex. D at 2, 7-8; Ex. L at 13. Between June 2009 and May 2010, Desai induced at least five investors to trade options, futures, and currencies through SSC. Ex. D at 1-2; Ex. L at 13-14. These investors agreed to pay Desai half of all profits earned on trades Desai executed on their behalf. Ex. D at 2; Ex. L at 13.

To induce these five investors to invest with him, Desai made various misrepresentations including that: he was licensed to trade securities; SSC was a registered broker-dealer; funds held by SSC were insured; and he had previously worked as a day trader for two years. Ex. D at 2; Ex. L at 14. Additionally, Desai promised at least one of his investors that he would keep investor money in segregated accounts. Ex. D at 2. Desai received almost \$250,000 from these five investors, but did not deposit this entire amount into any brokerage accounts held by SSC. *Id.* For example, one investor provided \$100,000 to Desai, but only \$90,000 was transferred to a brokerage account; the remaining \$10,000 was used for expenses unrelated to the investor's investment. *Id.* In another instance, three investors gave Desai \$70,000, and Desai misappropriated \$5,000 to pay for various personal expenses. *Id.* From November 2008 to February 2011, Desai spent over \$141,000 of investor funds on expenses unrelated to their investments, and he transferred a portion of these funds to foreign exchange market accounts. *Id.*

Desai covered up his activities by creating account statements showing extremely high profits and informing investors that their SSC account values were higher than they actually were. Ex. D at 2-3; Ex. L at 14-15. Additionally, he co-mingled investor funds, which on at least one occasion he used to demonstrate purported increases in the value of investments. Ex. D at 2. Desai deducted his fifty-percent commissions from the accounts based on the false profits he reported. *Id.* at 2-3. For a brokerage account of a sixth individual, Desai inflated account values and presented false account statements in order to receive \$68,021 in commissions for purported trades he undertook in the client's brokerage account. *Id.* at 3.

Desai entered into a settlement agreement to pay \$349,000 to one investor, of which \$60,000 was paid, and he returned \$148,350 to other investors and entered into settlements with most of them. *Id.* No investor received the large profits that Desai said he had made in their accounts. *Id.*

<sup>5</sup> On October 3, 2012, the district court entered a default judgment permanently enjoining SSC from violations of the antifraud and broker registration provisions of the federal securities laws, and finding SSC liable for disgorgement of \$116,858.29 plus prejudgment interest. Ex. B at 1-4.

Exhibit C

1 Page

1 You know, we are very aware of the fact that he  
2 is pro se. We have made every effort to volunteer to  
3 make files available to him, and to provide him with  
4 electronic copies of them, but if he refuses -- you know,  
5 his refusal to speak to us has made that impossible, and  
6 we've had -- you know, candid -- we've have similar  
7 problems getting him to engage with us throughout the  
8 civil litigation, including to do things such as confer  
9 regarding discoveries.

10 So I think we have some skepticism that a delay  
11 here would be productive, and it's our view that -- it's  
12 our hope that we could move forward by setting a deadline  
13 for Mr. Desai to file an answer which is already overdue,  
14 and to set a schedule for us to file a motion for summary  
15 disposition.

16 MR. DESAI: Your Honor, may I -- may I respond,  
17 Your Honor?

18 JUDGE MURRAY: Well, let -- yeah, I have to --  
19 of course you can respond. I'm just trying to digest  
20 what she said.

21 MR. DESAI: I'm sorry.

22 JUDGE MURRAY: No, no. That's okay. I just --  
23 I just have to sort of digest what she said. Let me --  
24 let me just say Mr. Desai, that this is -- this is what I  
25 think you should understand, is that this agency --

1 Congress, when it passed this law and gave the Commission  
2 this authority, it doesn't anybody that's been convicted  
3 of crimes, or been subject to a civil injunction, to  
4 participate in the securities industry. That's what they  
5 don't want, and that's what you're facing.

6 Now, I can tell you from the case law -- and I  
7 can send you some copies of some cases -- it's going to  
8 be a very difficult task for you to show that, unlike a  
9 lot of other people similarly situated in situations like  
10 yours, you are going to be able to show that these  
11 injunctions, and this criminal -- in fact, I think  
12 that -- your -- that civil was a default judgement. You  
13 didn't even contest that civil action which resulted in  
14 the injunction.

15 MS. MCGILL: Sorry to interrupt, Your Honor,  
16 just to --

17 JUDGE MURRAY: I'm sorry?

18 MS. MCGILL: -- say it was a -- it was a summary  
19 judgement motion -- so a summary judgement, not a default  
20 judgement in the civil case.

21 JUDGE MURRAY: Okay, but the -- wait a minute.

22 MS. MCGILL: But Mr. Desai did plead guilty in  
23 the criminal case.

24 JUDGE MURRAY: Plead guilty in the criminal,  
25 but the first -- the first was a default judgement,

1 right, he 10/30/2012?

2 MS. MCGILL: There was a default judgement that  
3 was entered in 2012 against a corporation that Mr. Desai  
4 controlled.

5 JUDGE MURRAY: Oh, okay. I'm sorry, but then  
6 the -- so then the final -- let's see. The second -- the  
7 final judgement was the result of a -- the Commission's  
8 prevailing on a motion for summary disposition?

9 MS. MCGILL: Correct, Your Honor.

10 JUDGE MURRAY: Okay, I got it. Did you  
11 actively participate in those cases, Mr. Desai -- in that  
12 case? You contested it?

13 MR. DESAI: Your Honor, I was not able to get  
14 an attorney for the corporation; that's the reason why  
15 there was a default judgement, Your Honor.

16 JUDGE MURRAY: What about -- I'm sorry. What  
17 about the final judgement in 2015?

18 MR. DESAI: Your Honor, I have filed a motion  
19 for reconsideration -- additional three motions at the  
20 district court, which I am awaiting a decision on, Your  
21 Honor.

22 JUDGE MURRAY: Did you --

23 MR. DESAI: And Your Honor, if I may add two  
24 other points. Number one: my partner has still not been  
25 served regarding the papers of this proceeding, or has

1 not been made party to this action, and --

2 JUDGE MURRAY: Mr. Desai, I don't want to be  
3 brusque, but I don't care about your partner. I don't  
4 have a case involving your partner; I have a case  
5 involving you.

6 MR. DESAI: Then Your Honor, I ask again if I  
7 may be permitted to get counsel and await the decision at  
8 the district court, Your Honor.

9 JUDGE MURRAY: No. I'm telling you, I can't --  
10 they -- these presidential appointed people that run this  
11 Commission, when they sent this case down to me, they  
12 decided -- or they sent it down as a case that has to be  
13 decided in 210 days. I calculate that it's -- I got to  
14 issue a final decision -- by my calculations, and I'm  
15 often wrong, but I'm in the -- I'm in the ballpark  
16 usually. It's the 9th of August.

17 So this is February, so we've got from now  
18 until August to get this thing resolved. The question  
19 really at this pre-hearing conference is one: do we have  
20 a face to face hearing? Do I go up to Fort Devens, and  
21 try to get a room up there, and listen to your evidence  
22 if you have any. And -- or, do we decide this on paper?

23 And the fact of giving you a postponement --  
24 now, I can give you -- I can give you some time to get  
25 ready for a hearing, or to write motions, but it's